

6459. Misbranding of Fruitatives. U. S. * * * v. 9 1/3 Dozen Large Packages and 9 1/6 Dozen Small Packages of Fruitatives. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 9456. I. S. No. 12645-r. S. No. E-1155.)

On November 30, 1918, the United States attorney for the District of Maine, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 9 1/3 dozen large packages and 9 1/6 dozen small packages of Fruitatives, consigned by Fruitatives (Ltd.), Ogdensburg, N. Y., remaining unsold in the original unbroken packages at Portland, Me., alleging that the article had been shipped on October 3, 1918, and transported from the State of New York into the State of Maine, and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part, "Fruitatives' Fruit Liver Tablets * * *

Misbranding of the article was alleged in the libel for the reason that the packages bore the inscription, "Fruitatives' Fruit Liver Tablets' By their fruit ye shall know them" "The laxative and healing properties of fresh ripe fruit * * * 'Fruitatives' Fruit Liver Tablets' compound is made from the laxative, or liver principle, extracted by a special process from oranges, apples, prunes and figs * * * Composition: 'Fruitatives' is made from a special extract of concentrated and intensified fruit juice," together with pictorial device of apparatus being fed different fruits and discharging tablets of the product and bearing the further inscription, "Made from fresh ripe fruit," which said inscriptions and pictorial device were false and misleading in that they conveyed the impression that the laxative and healing properties were due to fruit or fruit extracts, when in fact they were not. Misbranding of the article was alleged for the further reason that the packages bore the inscription, "Antiseptics," which said inscription was false and misleading in that, while quinine, one of the ingredients, may be regarded as an antiseptic, it is not such in the form or dose found in the product; and for the further reason that the packages bore the inscription, "Harmless," which said inscription was not corrected by qualifying statement, "when taken as directed," and was false and misleading in that it was not harmless, but contained an active poison, nuxvomica (strychnine). Misbranding of the article was alleged for the further reason that the packages bore certain statements regarding the curative or therapeutic effects of the article, to wit, "Strengthens the stomach and liver; * * * stimulates the kidneys * * * ; tends to purify the blood; tones up the nervous system," "relieves * * * Recurring Headaches, Dizziness, Backache," [and the pamphlet contained the statement] "'Fruitatives' is an Effective Remedy * * * and has a distinctly remedial action on the stomach, bowels, kidneys, skin and nervous system. In * * * indigestion * * * kidney irritation, skin diseases, headaches, backaches, sleeplessness, pelvic pains, nervous depression and blood impurity—Fruitatives is very beneficial and highly recommended. * * * Indigestion or Dyspepsia. Fruitatives will materially aid in relieving this disease * * * Rheumatism. The action of Fruitatives will tend to relieve rheumatism. Catarrh * * * Use Fruitatives * * *," which said statements were false and misleading in that the article contained no ingredient or ingredients capable of producing the therapeutic or curative effects claimed for it in said statements.

On December 28, 1918, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

J. R. RIGGS, *Acting Secretary of Agriculture.*